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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. 03-0034
)
MARTINE COLETTE, an individual;)
WILDLIFE WAYSTATION, a California)
corporation; and ROBERT H. LORSCH, an)
individual,)
)
Respondents.)

In re:) AWA Docket No. 07-0175
)
MARTINE COLETTE, an individual;)
WILDLIFE WAYSTATION, a California)
corporation; and ROBERT H. LORSCH, an)
individual,)
)
Respondents.) CONSENT DECISION AND
ORDER AS TO RESPONDENT
WILDLIFE WAYSTATION

The above proceedings were instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(the “Act”), by complaints filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondents willfully violated the Act and the regulations and standards issued thereunder (9 C.F.R. § 1.1 et seq.). This decision is entered into pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondent Wildlife Waystation admits the jurisdictional allegations in the second amended complaint in AWA Docket No. 03-0034, and in the complaint in AWA Docket No. 07-0175, admits certain of the remaining allegations in said complaints as set forth herein as findings of fact and conclusions of law, and neither admits nor denies the remaining allegations, waives oral hearing and

further procedure, and consents and agrees to the entry of this decision for the purpose of settling these proceedings. The complainant agrees to the entry of this decision, and the parties agree that this consent decision resolves all matters known to the complainant and arising from evidence obtained and inspections conducted through August 22, 2007, as alleged in the second amended complaint in AWA Docket No. 03-0034, and in the complaint in AWA Docket No. 07-0175.

Findings of Fact

1. Respondent Wildlife Waystation is a California corporation whose agent for service of process is Byron Countryman, 14831 Little Tujunga Canyon Road, Sylmar, California 91342. At all times mentioned herein, respondent Wildlife Waystation operated as an exhibitor as that term is defined in the Act.

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2. Repeatedly between November 3, 2002, and November 21, 2003, and including without limitation on, *inter alia*, July 22, 2003, respondent Wildlife Waystation operated as an exhibitor, and specifically, operated a zoo, at 14831 Little Tujunga Canyon Road, Los Angeles, California, held fund-raising and other events at that location at which respondent displayed animals to the public, and made animals available for viewing at off-site events, without having a valid license under the Act.

3. On August 19-21, and September 16, 2003, respondent Wildlife Waystation failed to employ an attending veterinarian or attending veterinarians able to provide adequate veterinary care to the animals in respondent's custody in compliance with the Regulations, and specifically respondent's veterinary staff for all of the animals held by respondent consisted of a single part-time attending veterinarian with experience with exotic and wild animals, and one newly-hired full-time attending veterinarian with little or no experience with exotic or wild animals.

4. On August 19-21, and September 16, 2003, respondent Wildlife Waystation failed to employ a full-time attending veterinarian or a part-time attending veterinarians under formal arrangements that included a written program of veterinary care, and specifically, respondent's written program of veterinary care was obsolete.

5. On August 19-21, September 16, and October 14, 2003, respondent Wildlife Waystation failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate personnel, and specifically, an adequate number of employees trained in species-specific animal care and husbandry.

6. On or about September 16, 2003, respondent Wildlife Waystation failed to establish and maintain a program of adequate veterinary care that included the use of appropriate methods to control and treat diseases and injuries, daily observation of all animals to assess their health and well-being, and a mechanism of direct and frequent communication with the attending veterinarian or attending veterinarians, so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian or attending veterinarians, and specifically, respondent failed to maintain current, detailed, accurate records of respondent's treatment and the condition of the chimpanzee named "Sammy," including reference to the necessary psychological enrichment for this special needs animal, failed to observe and assess Sammy's health and well-being, as evidenced by only four written notations in the keepers' log concerning this animal between May 8 and September 2, 2003, despite Sammy's severe self-mutilation of his forearms, hands, head and legs resulting in exposure of muscle and tendons in some areas, and failed to convey to respondent's veterinary staff timely information concerning Sammy's condition, in order for steps to be taken to alleviate his continuing and active self-mutilation of his forearms, hands, head and legs.

7. On October 12, 2002, and November 3, 2002, respondent Wildlife Waystation failed to handle animals during public exhibition so there was minimal risk of harm to the animals and to the public, with sufficient distance and/or barriers between the animals and the general viewing public so as to assure the safety of animals and the public, and specifically, exhibited nonhuman primates and exotic felines without any distance or barriers between the animals and the public, and allowed the public to pose with, pet, play with, walk and otherwise handle such animals.

8. Respondent Wildlife Waystation failed to meet the minimum facilities and operating standards for nonhuman primates, as follows:

a. On September 16 and October 14, 2003, respondent Wildlife Waystation failed to develop, document or follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of non-human primates and that addresses special considerations for certain non-human primates and provides special attention regarding enhancement of their environment, and specifically, respondent's written plan failed to address the needs of the chimpanzee Sammy, as evidenced by his physical state and observed psychological distress, and respondent failed to provide special attention to Sammy's special needs, as a chimpanzee that has shown and continues to show signs of being in psychological distress through his appearance and behavior, in particular his active mutilation of his head, hands, forearms and legs, which has resulted in exposed muscle and tendon.

b. On or about September 16, 2003, respondent Wildlife Waystation failed to establish and maintain an effective program for the control of insects to promote the health and well-being of animals, and specifically, failed to control flies in the areas where the chimpanzee "Sammy" is housed, and have allowed flies to accumulate on the chimpanzee's

wounds, which in turn stimulates the chimpanzee to exacerbate the injuries on mutilated areas of his body.

c. On August 19-21, September 16, October 14, 2003, respondent Wildlife Waystation failed to have a supervisor with adequate knowledge, background and experience in proper husbandry and care of nonhuman primates provide training and supervision to employees who handle or provide husbandry practices and care to nonhuman primates to carry out the level of husbandry practices and care required by the Regulations and Standards.

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9. Since November 21, 2003, respondent Wildlife Waystation has continually operated as an exhibitor, and specifically operated a zoo, at 14831 Little Tujunga Canyon Road, Los Angeles, California, held fund-raising and other events at that location at which it displayed animals to the public, and made animals available for viewing at off-site events, without having a valid license under the Act.

10. On March 20, 2006, respondent Wildlife Waystation failed to employ an attending veterinarian or attending veterinarians able to provide adequate veterinary care to the animals in respondent's custody in compliance with the Regulations, and specifically employed a part-time attending veterinarian without formal arrangements that included a written program of veterinary care.

11. On or about April 3, 2004, respondent Wildlife Waystation failed to handle animals as carefully as possible in a manner that does not cause overheating, behavioral stress, physical harm or unnecessary discomfort, and specifically, kept two tethered coyotes, who were in obvious

discomfort and stress, on display to the public at Pet Expo, Orange County Fairgrounds, Costa Mesa, California.

12. On April 3, 2004, at Pet Expo, in Costa Mesa, California, respondent Wildlife Waystation exhibited two coyotes for periods of time and under conditions that were inconsistent with their good health and well being.

13. On April 3, 2004, at Pet Expo, in Costa Mesa, California, respondent Wildlife Waystation exhibited two coyotes outside of the direct control and supervision of a knowledgeable animal handler, and specifically, respondent's animal handler who supervised this exhibition failed to have sufficient knowledge to allow him to identify and address the signs of stress exhibited by the two coyotes, to handle the coyotes in a careful and humane manner, and to engage in a civil discussion about the animals with the APHIS inspector.

14. On or about October 16, 2004, respondent Wildlife Waystation failed to handle animals as carefully as possible in a manner that does not cause trauma, behavioral stress, physical harm, or unnecessary discomfort, and failed to handle animals during public exhibition so there was minimal risk of harm to the animals and to the public, with sufficient distance and/or barriers between the animals and the general viewing public so as to assure the safety of animals and the public, and specifically, exhibited an adult tiger on a leash at a fund-raising event held by respondent at the Playboy Mansion, in Los Angeles, California, and walked the tiger through the areas where members of the public were present, without any distance or barrier between the animals and the public.

15. On or about March 16, 2006, respondent Wildlife Waystation failed to handle animals as carefully as possible in a manner that does not cause behavioral stress, trauma, physical harm or unnecessary discomfort, and used physical abuse to handle animals, and specifically, allowed a

juvenile tiger and an adult tiger to be walked on leashes outside of their enclosures at respondent's facility and attempted to have the two animals interact with each other, which resulted in the adult tiger's attacking and injuring the juvenile tiger, and the use of sticks and pepper spray by personnel to separate the animals.

16. Respondent Wildlife Waystation failed to meet the minimum facilities and operating standards for nonhuman primates (9 C.F.R. §§ 3.75-3.92), as follows:

a. On April 14, 2004, respondent failed to establish and maintain an effective program of pest control, and specifically, (i) in Chimp Area #2, APHIS inspectors observed rodents in the den box area, rodents wandering through the shavings and on top of the protective mesh over the heater, and rodents running under the heater, (ii) under the chimp building there was a plentiful amount of food debris, apparently accumulated by rodents, (iii) in the "Q1" area, there was a large number of flies near the drain adjacent to the lower cages, and no apparent control measures in place, and (iv) in the baboon enclosure nearest the hospital building, there was a large number of flies, and no apparent fly control measures in place.

17. Respondent Wildlife Waystation failed to meet the minimum facilities and operating standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. §§ 3.125-3.142), as follows:

a. On or about March 16, 2006, respondent failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards, under a supervisor with adequate animal care background provide training and supervision to employees who handle or provide husbandry practices and care to animals, and specifically, delegated the handling of large felids to employees

who lacked sufficient training, knowledge, and judgment regarding dangerous animals, and who regularly walked adult tigers on leashes through the facility.

b. On April 3, 2004, respondent failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards, under a supervisor with adequate animal care background provide training and supervision to employees who handle or provide husbandry practices and care to animals, and specifically, delegated handling of coyotes to an employee who lacked adequate training, knowledge, and judgment to recognize signs of stress in canids.

Conclusions of Law

1. Respondent Wildlife Waystation has admitted the facts set forth above, the parties have agreed to the entry of this decision, and therefore such decision will be entered, and the order set forth below will be issued.

AWA Docket No. 03-0034

2. Repeatedly between November 3, 2002, and November 21, 2003, and including without limitation on, *inter alia*, July 22, 2003, respondent Wildlife Waystation operated as an exhibitor, as that term is defined in the Act (7 U.S.C. § 2132(h)) and the Regulations (9 C.F.R. § 1.1), and specifically, operated a zoo, as that term is defined in the Regulations (9 C.F.R. § 1.1), at 14831 Little Tujunga Canyon Road, Los Angeles, California, held fund-raising and other events at that location at which respondent displayed animals to the public, and made animals available for viewing at off-site events, without having a valid license under the Act, in willful violation of sections 2.1(a) of the Regulations (9 C.F.R. § 2.1(a)).

3. On August 19-21, and September 16, 2003, respondent Wildlife Waystation failed to employ an attending veterinarian or attending veterinarians able to provide adequate veterinary care

to the animals in respondent's custody in compliance with the Regulations, and specifically respondent's veterinary staff for all of the animals held by respondent consisted of a single part-time attending veterinarian with experience with exotic and wild animals, and one newly-hired full-time attending veterinarian with little or no experience with exotic or wild animals, in willful violation of section 2.40(a) of the Regulations. 9 C.F.R. § 2.40(a).

4. On August 19-21, and September 16, 2003, respondent Wildlife Waystation failed to employ a full-time attending veterinarian or a part-time attending veterinarians under formal arrangements that included a written program of veterinary care, and specifically, respondent's written program of veterinary care was obsolete, in willful violation of section 2.40(a)(1) of the Regulations. 9 C.F.R. § 2.40(a)(1).

5. On August 19-21, September 16, and October 14, 2003, respondent Wildlife Waystation failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate personnel, and specifically, an adequate number of employees trained in species-specific animal care and husbandry, in willful violation of section 2.40(b)(1) of the Regulations. 9 C.F.R. § 2.40(b)(1).

6. On or about September 16, 2003, respondent Wildlife Waystation failed to establish and maintain a program of adequate veterinary care that included the use of appropriate methods to control and treat diseases and injuries, daily observation of all animals to assess their health and well-being, and a mechanism of direct and frequent communication with the attending veterinarian or attending veterinarians, so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian or attending veterinarians, and specifically, failed to maintain current, detailed, accurate records of respondent's treatment and the condition of the chimpanzee named "Sammy," including reference to the necessary psychological

enrichment for this special needs animal, failed to observe and assess Sammy's health and well-being, as evidenced by only four written notations in the keepers' log concerning Sammy between May 8 and September 2, 2003, despite his severe self-mutilation of his forearms, hands, head and legs resulting in exposure of muscle and tendons in some areas, and failed to convey to respondent's veterinary personnel timely information concerning the condition of the chimpanzee named "Sammy," in order for steps to be taken to alleviate this animal's continuing and active self-mutilation of his forearms, hands, head and legs, in willful violation of the Regulations. 9 C.F.R. §§ 2.40(b)(2), 2.40(b)(3).

7. On October 12, 2002, and November 3, 2002, respondent Wildlife Waystation failed to handle animals during public exhibition so there was minimal risk of harm to the animals and to the public, with sufficient distance and/or barriers between the animals and the general viewing public so as to assure the safety of animals and the public, and repeatedly exhibited nonhuman primates and exotic felines at the premises at 14831 Little Tujunga Canyon Road, Los Angeles, California, and off-site, without any distance or barriers between the animals and the public, and allowed the public to pose with, pet, play with, walk and otherwise handle such animals, in willful violation of the Regulations. 9 C.F.R. § 2.131(b)(1).

8. Respondent Wildlife Waystation willfully violated section 2.100(a) of the Regulations by failing to meet the minimum facilities and operating standards for nonhuman primates (9 C.F.R. §§ 3.75-3.92), as follows:

a. On September 16 and October 14, 2003, respondent Wildlife Waystation failed to develop, document, or follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of non-human primates, and that addresses special considerations for certain non-human primates and provides special

attention regarding enhancement of their environment, and specifically, respondent's written plan failed to address the needs of the chimpanzee Sammy, as evidenced by his physical state and observed psychological distress, and respondent failed to provide special attention to Sammy's special needs, in that he has shown and continues to show signs of being in psychological distress through his appearance and behavior, in particular his active mutilation of his head, hands, forearms and legs, which has resulted in exposed muscle and tendon. 9 C.F.R. § 3.81(c).

b. On or about September 16, 2003, respondent Wildlife Waystation failed to establish and maintain an effective program for the control of insects to promote the health and well-being of animals, and specifically, failed to control flies in the areas where the chimpanzee "Sammy" is housed, and have allowed flies to accumulate on the chimpanzee's wounds, which in turn stimulates the chimpanzee to exacerbate the injuries on mutilated areas of his body. 9 C.F.R. § 3.84(d).

c. On August 19-21, September 16, October 14, 2003, respondent Wildlife Waystation failed to have a supervisor with adequate knowledge, background and experience in proper husbandry and care of nonhuman primates provide training and supervision to employees who handle or provide husbandry practices and care to nonhuman primates to carry out the level of husbandry practices and care required by the Regulations and Standards. 9 C.F.R. § 3.85.

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9. Since November 21, 2003, respondent Wildlife Waystation has continually operated as an exhibitor, as that term is defined in the Act (7 U.S.C. § 2132(h)) and the Regulations (9 C.F.R. § 1.1), and specifically said respondent operated a zoo, as that term is defined in the Regulations (9

C.F.R. § 1.1), at 14831 Little Tujunga Canyon Road, Los Angeles, California, held fund-raising and other events at that location at which it displayed animals to the public, and made animals available for viewing at off-site events, without having a valid license under the Act, in willful violation of sections 2.1(a) of the Regulations. 9 C.F.R. § 2.1(a).

10. On March 20, 2006, respondent Wildlife Waystation failed to employ an attending veterinarian or attending veterinarians able to provide adequate veterinary care to the animals in respondent's custody in compliance with the Regulations, and specifically employed a part-time attending veterinarian without formal arrangements that included a written program of veterinary care, in willful violation of section 2.40(a)(1) of the Regulations. 9 C.F.R. § 2.40(a)(1).

11. On or about April 3, 2004, respondent Wildlife Waystation failed to handle animals as carefully as possible in a manner that does not cause overheating, behavioral stress, physical harm or unnecessary discomfort, and specifically, kept two tethered coyotes, who were in obvious discomfort and stress, on display to the public at Pet Expo, Orange County Fairgrounds, Costa Mesa, California, in willful violation of the Regulations. 9 C.F.R. § 2.131(a)(1)[renumbered as 9 C.F.R. § 2.131(b)(1), effective July 14, 2004].

12. On April 3, 2004, at Pet Expo, in Costa Mesa, California, respondent Wildlife Waystation exhibited two coyotes for periods of time and under conditions that were inconsistent with their good health and well being, in willful violation of the Regulations. 9 C.F.R. § 2.131(d)(1)[formerly 9 C.F.R. § 2.131(c)(1)].

13. On April 3, 2004, at Pet Expo, in Costa Mesa, California, respondent Wildlife Waystation exhibited two coyotes outside of the direct control and supervision of a knowledgeable animal handler, and specifically, respondent's animal handler who supervised this exhibition failed to have sufficient knowledge to allow him to identify and address the signs of stress exhibited by the

two coyotes, to handle the coyotes in a careful and humane manner, and to engage in a civil discussion about the animals with the APHIS inspector, in willful violation of the Regulations. 9 C.F.R. § 2.131(d)(3)[formerly 9 C.F.R. § 2.131(c)(3)].

14. On or about October 16, 2004, respondent Wildlife Waystation failed to handle animals as carefully as possible in a manner that does not cause trauma, behavioral stress, physical harm, or unnecessary discomfort, and failed to handle animals during public exhibition so there was minimal risk of harm to the animals and to the public, with sufficient distance and/or barriers between the animals and the general viewing public so as to assure the safety of animals and the public, and specifically, exhibited an adult tiger on a leash at a fund-raising event held by respondent at the Playboy Mansion, in Los Angeles, California, and walked the tiger through the areas where members of the public were present, without any distance or barrier between the animals and the public, in willful violation of the Regulations. 9 C.F.R. §§ 2.131(b)(1), 2.131(c)(1).

15. On or about March 16, 2006, respondent Wildlife Waystation failed to handle animals as carefully as possible in a manner that does not cause behavioral stress, trauma, physical harm or unnecessary discomfort, and used physical abuse to handle animals, and specifically, allowed a juvenile tiger and an adult tiger to be walked on leashes outside of their enclosures at respondent's facility and attempted to have the two animals interact with each other, which resulted in the adult tiger's attacking and injuring the juvenile tiger, and the use of sticks and pepper spray by personnel to separate the animals, in willful violation of the Regulations. 9 C.F.R. §§ 2.131(b)(1), 2.131(b)(2)(i).

16. Respondent Wildlife Waystation willfully violated section 2.100(a) of the Regulations by failing to meet the minimum facilities and operating standards for nonhuman primates (9 C.F.R. §§ 3.75-3.92), as follows:

a. On April 14, 2004, respondent failed to establish and maintain an effective program of pest control, and specifically, (i) in Chimp Area #2, APHIS inspectors observed rodents in the den box area, rodents wandering through the shavings and on top of the protective mesh over the heater, and rodents running under the heater, (ii) under the chimp building there was a plentiful amount of food debris, apparently accumulated by rodents, (iii) in the "Q1" area, there was a large number of flies near the drain adjacent to the lower cages, and no apparent control measures in place, and (iv) in the baboon enclosure nearest the hospital building, there was a large number of flies, and no apparent fly control measures in place. 9 C.F.R. § 3.84(d).

17. Respondent Wildlife Waystation willfully violated section 2.100(a) of the Regulations by failing to meet the minimum facilities and operating standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. §§ 3.125-3.142), as follows:

a. On or about March 16, 2006, respondent failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards, under a supervisor with adequate animal care background provide training and supervision to employees who handle or provide husbandry practices and care to animals, and specifically, delegated the handling of large felids to employees who lacked sufficient training, knowledge, and judgment regarding dangerous animals, and who regularly walked adult tigers on leashes through the facility. 9 C.F.R. § 3.132.

b. On April 3, 2004, respondent failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards, under a supervisor with adequate animal care background

provide training and supervision to employees who handle or provide husbandry practices and care to animals, and specifically, delegated handling of coyotes to an employee who lacked adequate training, knowledge, and judgment to recognize signs of stress in canids. 9.C.F.R. § 3.132.

Order


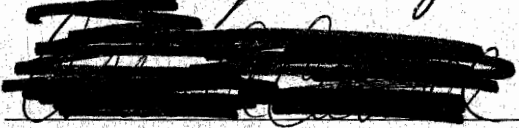
1. Respondent Wildlife Waystation, its agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the Regulations and Standards.

2. Respondent Wildlife Waystation is assessed a civil penalty of \$25,000, to be paid by certified check or money order made payable to the Treasurer of the United States within 180 days of the entry of this decision. Said civil penalty shall be sent to:

Colleen A. Carroll
Office of the General Counsel
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250-4117

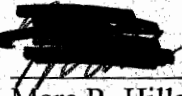

This order shall become effective on the date set forth below. Copies of this decision shall be served upon the parties.

WILDLIFE WAYSTATION
a California corporation
Respondent

By 
Its *Wildlife Way Station*


Colleen A. Carroll
Attorney for Complainant

Done at Washington, D.C.
this 14th day of September, 2007

 
Marc R. Hillson
Chief Administrative Law Judge